

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Lakefront at West Chester, LLC	:	Case No. 1:21-cv-444
	:	
Plaintiff,	:	Judge Susan J. Dlott
	:	Magistrate Judge Karen L. Litkovitz
v.	:	
	:	Order Adopting Report and
Rosalind Holmes,	:	Recommendation
	:	
Defendant.	:	
	:	

This matter is before the Court on Magistrate Judge Litkovitz's Report and Recommendation ("R&R") (Doc. 31) recommending that Defendant Rosalind Holmes's motion for leave to proceed *in forma pauperis* on appeal pursuant to 28 U.S.C. § 1915 (Doc. 30) be denied. Defendant has not objected to the R&R within the allotted time.

The Court has reviewed and considered all of the filings in this matter. Upon consideration of the foregoing, the Court hereby **ADOPTS** the R&R. Accordingly, Defendant's motion for leave to proceed *in forma pauperis* on appeal (Doc. 30) is **DENIED**. As the Court previously has found it lacks subject matter jurisdiction over this case, an appeal from the Order dismissing this action (Doc. 25) would be objectively frivolous and would not be taken in good faith within the meaning of 28 U.S.C. § 1915(a)(3).

Pursuant to Fed. R. App. P. 24(a)(4) and (5), Defendant may file, within thirty (30) days after service of this Order, a motion with the Sixth Circuit Court of Appeals for leave to proceed as a pauper on appeal. *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999) (overruling in part *Floyd v. United States Postal Serv.*, 105 F.3d 274 (6th Cir. 1997)). Defendant's motion

must include a copy of the affidavit filed in this Court and the Court's statement of reasons for denying her pauper status on appeal. *Id.*; *see also* Fed. R. App. P. 24(a)(5).

Defendant is on notice that if she does not file a motion to proceed *in forma pauperis* with the Sixth Circuit Court of Appeals within thirty (30) days of receiving notice of this Order pursuant to Fed. R. App. P. 24(a)(5), or fails to pay the required filing fee of \$505.00 within this same time period, the appeal will be dismissed for want of prosecution. *See Callihan*, 178 F.3d at 804. Once dismissed for want of prosecution, the appeal will not be reinstated, even if the filing fee or motion for pauper status is subsequently tendered, unless Defendant can demonstrate that she did not receive notice of this Order within the time period prescribed by Fed. R. App. P. 24(a)(5). *Id.*

IT IS SO ORDERED.



Susan J. Dlott
United States District Judge